

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 161**

Introduced by McDonnell, 5.

Read first time January 09, 2023

Committee:

- 1 A BILL FOR AN ACT relating to the Workplace Privacy Act; to amend
- 2 sections 48-3502 and 48-3503, Reissue Revised Statutes of Nebraska;
- 3 to redefine a term; to prohibit employers from taking certain
- 4 actions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-3502, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 48-3502 For purposes of the Workplace Privacy Act:

4 (1) Adverse action means the discharge of an employee, a threat  
5 against an employee, or any other act against an employee that negatively  
6 affects the employee's employment;

7 (2) Applicant means a prospective employee applying for employment;

8 (3) Electronic communication device means a cellular telephone,  
9 personal digital assistant, electronic device with mobile data access,  
10 laptop computer, pager, broadband personal communication device, two-way  
11 messaging device, electronic game, or portable computing device;

12 (4) Employee means an individual employed by an employer;

13 (5) Employer means (a) a public or nonpublic entity or an individual  
14 engaged in a business, an industry, a profession, a trade, or other  
15 enterprise in the state, including any agent, representative, or designee  
16 acting directly or indirectly in the interest of such an employer, (b) a  
17 subcontractor of such an employer, and (c) a customer of such an  
18 employer; and

19 (6)(a) Personal Internet account means an individual's online  
20 account that requires login information in order to access or control the  
21 account.

22 (b) Personal Internet account does not include:

23 (i) An online account that an employer or educational institution  
24 supplies or pays for, except when the employer or educational institution  
25 pays only for additional features or enhancements to the online account;  
26 or

27 (ii) An online account that is used exclusively for a business  
28 purpose of the employer.

29 Sec. 2. Section 48-3503, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 48-3503 No employer shall:

1 (1) Require or request that an employee or applicant provide or  
2 disclose any user name or password or any other related account  
3 information in order to gain access to the employee's or applicant's  
4 personal Internet account by way of an electronic communication device;

5 (2) Require or request that an employee or applicant log into a  
6 personal Internet account by way of an electronic communication device in  
7 the presence of the employer in a manner that enables the employer to  
8 observe the contents of the employee's or applicant's personal Internet  
9 account or provides the employer access to the employee's or applicant's  
10 personal Internet account;

11 (3) Require an employee or applicant to add anyone, including the  
12 employer, to the list of contacts associated with the employee's or  
13 applicant's personal Internet account or require or otherwise coerce an  
14 employee or applicant to change the settings on the employee's or  
15 applicant's personal Internet account which affects the ability of others  
16 to view the content of such account; ~~or~~

17 (4) Require an electronic communication device to be worn by an  
18 employee to track the employee's location or travel patterns or to  
19 confirm contacts with other employees, unless the Governor proclaims a  
20 state of emergency for a pandemic pursuant to section 81-829.40 and the  
21 following conditions are met:

22 (a) The state of emergency proclamation permits an employer to use  
23 an electronic communication device for contact tracing purposes only;

24 (b) The contact tracing is permitted only on the employer's premises  
25 during employee work hours; and

26 (c) The data collected during the contact tracing is not included in  
27 the employee's personnel files and is destroyed within forty-eight hours  
28 after the expiration of any tracing period recommended by the Centers for  
29 Disease Control and Prevention; or

30 (5) ~~(4)~~ Take adverse action against, fail to hire, or otherwise  
31 penalize an employee or applicant for failure to provide or disclose any

1 of the information or to take any of the actions specified in  
2 subdivisions (1) through (4) ~~(3)~~ of this section.

3 Sec. 3. Original sections 48-3502 and 48-3503, Reissue Revised  
4 Statutes of Nebraska, are repealed.